UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,081	10/10/2001	William D. Swart	SEDN/12163	5256

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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER
SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)
Office Action Summary		09/973,081	SWART ET AL.
		Examiner	**Art Unit**	
		Dominic D. Saltarelli	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 February 2007</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*11-13*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>*11-13*</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 11-13 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (5,600,573, of record) [Hendricks] in view of Kenner et al. (5,956,716, or record) [Kenner], Campanella (5,864,546, of record), and Farry et al. (5,608,447) [Farry].

Regarding claim 11, Hendricks discloses a method for acquiring and delivering content, comprising:

receiving a content download request from a user terminal (video on demand requests, col. 13, lines 34-40; col. 13 line 66 – col. 14 line 14; and col. 19, lines 46-54);

forwarding the requested content toward the user terminal (col. 6, lines 15-43), and

logging the delivery in a server database (col. 20, lines 50-64).

Hendricks fails to disclose determining if the request is a local download request or a remote download request and if the request is a remote download request, determining if the content is to be delivered directly or indirectly, wherein directly delivering content comprises bypassing an aggregator, and if the content is to be delivered directly, establishing a communications link from a remote content server to the user terminal, thereby by bypassing an aggregator, and validating the delivery of the content to the user terminal.

In an analogous art, Kenner teaches a method for acquiring and delivering content comprising receiving a content download request from a user terminal (col. 8, lines 14-25), determining if the request is a local download request or a remote download request (a check is first performed to see if requested content is locally available, col. 9, lines 42-54) and if the request is a remote download request, determining if the content is to be delivered directly or indirectly (the system can establish both direct links and indirect links, col. 12, lines 42-55), and if the content is to be delivered directly, and establishing a communications link from a remote content server to the user terminal (via the DSI, col. 9, lines 31-41), for the benefit of providing fast access to a wide selection of content distributed across many networks (col. 6, lines 42-52).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks to include determining if the request is a local download request or a remote download request and if the request is a remote download request, determining if the content is to be delivered directly or

indirectly, and if the content is to be delivered directly, and establishing a

communications link from a remote content server to the user terminal, as taught

by Kenner, for the benefit of providing fast access to a wide selection of content

distributed across many networks, eliminating the limitation of only making

available locally stored content on demand.

Hendricks and Kenner fail to disclose validating the delivery of the content

to the user terminal and directly delivering content comprises bypassing an

aggregator.

In an analogous art, Campanella discloses validating the delivery of

content for the benefit of accurate billing for the delivery of said content (col. 17,

lines 60-67).

It would have been obvious at the time to a person of ordinary skill in the

art to modify the method disclosed by Hendricks and Kenner to include validating

the delivery of content, as taught by Campanella, for the benefit of accurate

billing for the delivery of said content.

Hendricks, Kenner, and Campanella fail to disclose directly delivering

content comprises bypassing an aggregator.

In an analogous art, Farry discloses a video distribution network (col. 4,

lines 10-28) wherein the establishment of a direct link between a requesting

subscriber and an information source is through a permanent virtual circuit

through a digital cross-connect switch (col. 7, lines 15-22, col. 7, lines 56-64, and

col. 11, lines 15-41), providing the benefit of lowered routing delays (col. 2, lines 20-21).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks, Kenner, and Campanella to establish direct links in the manner disclosed by Farry (thereby bypassing the aggregator), for the benefit of lowering the routing delay in fulfilling a subscriber's request.

4.   Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, Kenner, Campanella, and Farry as applied to claim 1 above, and further in view of Wilkins (5,446,919, of record).

Regarding claim 12, Hendricks, Kenner, Campanella, and Farry disclose the method of claim 11, wherein if the request is a local download request (when content is stored locally in storage device 308, see Hendricks col. 9, lines 50-67 and col. 15 line 47 – col. 16 line 3), performing the steps of:

analyzing metadata related to the requested content, determining, based on the analyzed metadata, if the requested content is in a correct format for delivery to the user terminal, and reformatting the requested content as needed into a required format for delivery to the user terminal , and routing the requested content of the correct format to a content delivery server (where content is formatted as needed depending on who the content is being delivered to, see

Hendricks, col. 14, lines 20-38 and col. 15 line 31 – col. 16 line 3, prior to being

delivered to the cable headend 207 for distribution, see fig. 1);

analyzing a user profile associated with a user of the user terminal and the

content metadata and based on the analyzed user profile and the content

metadata applying a digital rights management scheme to the content delivery

(see Hendricks, col. 18, lines 39-58 and col. 20 line 50 – col. 21 line 9); and

incorporating advertisements into the requested content (Hendricks, col. 17, lines

49-67).

Hendricks, Kenner, Campanella, and Farry fail to disclose the

incorporating of advertisements into the requested content includes at least one

advertisement targeted to a user of the user terminal.

In an analogous art, Wilkins teaches targeting advertisements to specific

users (col. 8, lines 3-41 and col. 11, lines 19-38), for the benefit of improved

advertising (col. 4 line 44 – col. 5 line 39).

It would have been obvious at the time to a person of ordinary skill in the

art to modify the method disclosed by Hendricks, Kenner, Campanella, and Farry

to include targeting advertisements to specific users, as taught by Wilkins, for the

benefit of improved, more effective, advertising.

Regarding claim 13, Hendricks, Kenner, Campanella, and Farry disclose

the method of claim 11, wherein if the requested content is to be delivered

indirectly (Kenner, col. 12, lines 42-55), performing the steps of:

acquiring the requested content via a content acquisition server located in the aggregator (local SRU through which content is routed to a user terminal, Kenner, col. 11, lines 45-51);

if the requested content should be stored at the aggregator local storage (Kenner, col. 9, lines 55-67), performing the steps of:

determining a format of the requested content, if the format of the requested content is not correct for storage, reformatting the requested content, storing the requested content (Hendricks, col. 11, lines 46-60), analyzing metadata related to the requested content, determining, based on the analyzed metadata, if the requested content is in a correct format for delivery to the user terminal, and reformatting the requested content as needed into a required format for delivery to the user terminal, routing the requested content of the correct format to a content delivery server (where content is formatted as needed depending on who the content is being delivered to, see Hendricks, col. 14, lines 20-38 and col. 15 line 31 – col. 16 line 3, prior to being delivered to the cable headend 207 for distribution, see fig. 1); and

analyzing a user profile associated with a user of the user terminal and the content metadata and based on the analyzed user profile and the content metadata applying a digital rights management scheme to the content delivery (see Hendricks, col. 18, lines 39-58 and col. 20 line 50 – col. 21 line 9); and incorporating advertisements into the requested content (Hendricks, col. 17, lines 49-67).

Hendricks, Kenner, Campanella, and Farry fail to disclose the incorporating of advertisements into the requested content includes at least one advertisement targeted to a user of the user terminal.

In an analogous art, Wilkins teaches targeting advertisements to specific users (col. 8, lines 3-41 and col. 11, lines 19-38), for the benefit of improved advertising (col. 4 line 44 – col. 5 line 39).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks, Kenner, Campanella, and Farry to include targeting advertisements to specific users, as taught by Wilkins, for the benefit of improved, more effective, advertising.

Conclusion

5.   Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600